

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2024 Agenda Item #W-03

## Subject

Request by **Azusa Unified School District** to waive California *Education Code* sections specific to statutory provisions for the sale or lease of surplus property.

## Waiver Numbers

3-4-2024

4-4-2024

5-4-2024

6-4-2024

## Type of Action

Action, Consent

## Summary of the Issues

The Azusa Unified School District (USD) is requesting a waiver of California *Education Code* (*EC*) sections 17472, 17473 and 17474, and portions of sections 17455, 17466, 17468, 17469, 17470, and 17475, which will allow the district to sell or lease of surplus property, in a manner that best serves its schools and community, through the Request for Proposal (RFP) process.

## Authority for Waiver

California *EC* Section 33050

## Recommendation

* Approval: No
* Approval with conditions: Yes
* Denial: No

The California Department of Education (CDE) recommends approval with the following condition: The proposal that the Azusa USD’s governing board determines to be the most desirable shall be selected within 30 to 60 days of the public meeting where the proposal was received, and that the reasons for that determination be discussed in public session and included in the minutes of the meeting.

Approval of this waiver only applies to aforementioned sections and provisions of the Education Code from which Azusa USD seeks a waiver and does not extend to any other legal requirements that may be applicable to the sale or lease of property.

## Summary of Key Issues

Under provisions of *EC* Section 33050, Azusa USD requests that the specified *EC* sections be waived in order to allow the district to maximize their flexibility in negotiating the sale or lease of the following four pieces of real property located throughout the school district, the first three of which are currently vacant.

**Ellington Elementary School**

* Address: 5034 N. Clydebank Avenue, Covina, California
* Acres: Approximately 8.55 acres
* Current Use: Vacant. Closed on June 9, 2023.

**Mountain View Elementary School**

* Address: 201 N. Vernon Avenue, Azusa, California
* Acres: Approximately 8.45 acres
* Current Use: Vacant. Closed on June 6, 2019.

**Powell Elementary School**

* Address: 1035 E. Mauna Loa Avenue, Azusa, California
* Acres: Approximately 9.14 acres
* Current Use: Vacant. Closed on June 9, 2023.

**Former Sierra High School**

* Address: 1134 S. Barranca Avenue, Glendora, California
* Acres: Approximately 9.07 acres
* Current Use: A portion of the site is currently on a temporary lease (San Gabriel Valley Regional Occupational Program) with the terms of which are month to month until such time as the property is ready for sale.

From 2003 through 2022, Azusa USD experienced a 42 percent decrease in its student population, attributed to factors such as declining birth rate and rising housing costs prompting residents to relocate out of the district. This decline resulted in the student enrollment dropping from over 12,100 students to just over 7,000. Currently, with 16 school sites accommodating 7,084 students, the district is utilizing only 47 percent of its facilities' capacity.

As a result of the aforementioned student population declines, in August 2022, the Board of Education approved the creation of a Facilities Advisory Committee, who evaluated six Azusa USD properties, including the four schools listed above, all of which were closed and deemed surplus.

The Azusa USD seeks to optimize the sale of the four properties by requesting a waiver of specific *EC* provisions. This allows for a streamlined informal proposals process, facilitating public solicitation and competitive offer evaluation. While requesting a 2-year waiver to accommodate potential complexities, the district remains open to a shorter term if necessary. The Azusa’s Board of Education unanimously approved the waiver request, with no public objection.

**Demographic Information**

Azusa USD is a suburban district located in the city of Azusa, within Los Angeles County. It has an enrollment of 6,311 students.

**Because these are general waivers, if the State Board of Education (SBE) decides to deny the waivers, it must cite one of the seven reasons in *EC* Section 33051(a), available on the California Legislation Information web page at** <https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051.>

## Summary of Previous State Board of Education Discussion and Action

The SBE has approved all previous waivers regarding the bidding process and the sale or lease of surplus property. The districts are requesting to waive the same or similar provisions for the sale or lease of surplus property.

## Fiscal Analysis

The flexibility in property disposition requested herein will allow the districts to maximize value from the saleor lease of the properties.

The districts have certified that the sites have been owned for more than 10 years and therehave been no improvements funded by monies from the State School Facilities Program within the last 10 years. Therefore, pursuant to *EC* Section 17462.3, financial reimbursement is not due to the State Allocation Board.

## Attachments

* **Attachment 1:** Summary Table (4 pages)
* **Attachment 2:** Azusa Unified School District General Waiver Request 3-4-2024

(6 pages). (Original waiver request is signed and on file in the Waiver Office).

* **Attachment 3:** Azusa Unified School District General Waiver Request 4-4-2024

(6 pages). (Original waiver request is signed and on file in the Waiver Office).

* **Attachment 4:** Azusa Unified School District General Waiver Request 5-4-2024

(6 pages). (Original waiver request is signed and on file in the Waiver Office).

* **Attachment 5:** Azusa Unified School District General Waiver Request 6-4-2024

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# Attachment 1: Summary Table

California *EC* Section 17455 et seq.

| **Waiver Number** | **District** | **Properties** | **Period of Request** | **Local Board Approval Date** | **Public Hearing Date** | **Bargaining Unit Representatives** | **Advisory Committee Consulted** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 3-4-2024 | Azusa Unified School District | 5034 North Clydebank Covina, CA 91722  (Commonly known as the Ellington Elementary School.) | **Requested:** July 11, 2024, to July 11, 2026  **Recommended:**  July 11, 2024, to July 09, 2026 | 3/12/2024 | 3/12/2024  Public Hearing Advertised: Notice of the hearing was published in the San Gabriel Valley Tribune, a local publication. | Azusa Educators Association (AEA)  Megan Savella  President  02/16/2024  **Neutral**  Azusa Federation of Adult Educators (AFAE)  Cynthia Ontiveros  President  02/16/2024  **Neutral**  California School Employees Association (CSEA)  Patricia Sanchez  President  02/16/2024  **Neutral** | District Surplus Property Advisory Committee 2/16/2024 **No Objections** |
| 4-4-2024 | Azusa Unified School District | 1134 S. Barranca Ave., Glendora, California, 91740  (Commonly known as the Former Sierra High School.) | **Requested:** July 11, 2024, to July 11, 2026  **Recommended:**  July 11, 2024, to July 09, 2026 | 3/12/2024 | 3/12/2024  Public Hearing Advertised: Notice of the hearing was published in the San Gabriel Valley Tribune, a local publication. | Azusa Educators Association (AEA)  Megan Savella  President  02/16/2024  **Neutral**  Azusa Federation of Adult Educators (AFAE)  Cynthia Ontiveros  President  02/16/2024  **Neutral**  California School Employees Association (CSEA)  Patricia Sanchez  President  02/16/2024  **Neutral** | District Surplus Property Advisory Committee 2/16/2024 **No Objections** |
| 5-4-2024 | Azusa Unified School District | 201 N. Vernon Avenue, Azusa, California, 91702  (Commonly known as the Mountain View Elementary School.) | **Requested:** July 11, 2024, to July 11, 2026  **Recommended:**  July 11, 2024, to July 09, 2026 | 3/12/2024 | 3/12/2024  Public Hearing Advertised: Notice of the hearing was published in the San Gabriel Valley Tribune, a local publication. | Azusa Educators Association (AEA)  Megan Savella  President  02/16/2024  **Neutral**  Azusa Federation of Adult Educators (AFAE)  Cynthia Ontiveros  President  02/16/2024  **Neutral**  California School Employees Association (CSEA)  Patricia Sanchez  President  02/16/2024  **Neutral** | District Surplus Property Advisory Committee 2/16/2024 **No Objections** |
| 6-4-2024 | Azusa Unified School District | 1035 E. Mauna Loa Ave., Azusa, California, 91702  (Commonly known as Powell Elementary School.) | **Requested:** July 11, 2024, to July 11, 2026  **Recommended:**  July 11, 2024, to July 09, 2026 | 3/12/2024 | 3/12/2024  Public Hearing Advertised: Notice of the hearing was published in the San Gabriel Valley Tribune, a local publication. | Azusa Educators Association (AEA)  Megan Savella  President  02/16/2024  **Neutral**  Azusa Federation of Adult Educators (AFAE)  Cynthia Ontiveros  President  02/16/2024  **Neutral**  California School Employees Association (CSEA)  Patricia Sanchez  President  02/16/2024  **Neutral** | District Surplus Property Advisory Committee 2/16/2024 **No Objections** |

Created by the California Department of Education

July 2024

# Attachment 2: Azusa Unified School District General Waiver Request 3-4-2024

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964279

Waiver Number: 3-4-2024

Active Year: 2024

Date In: 4/9/2024 3:01:50 PM

Local Education Agency: Azusa Unified

Address: 546 S Citrus Ave

Azusa, CA 91702

Start: 7/11/2024

End: 7/11/2026

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

Ed Code Title: Sale of Surplus Property

Ed Code Section: 17455, 17466, 17468, 17469, 17470, 17472 (all), 17473 (all), 17474 (all), 17475

Ed Code Authority: 33050

Education Code or CCR to Waive: The Azusa Unified School District desires to waive the following sections and portions of the Education Code (“EC”). Specifically, the District requests that the language in brackets [] be waived:

EC § 17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district [, and shall be made in the manner provided by this article].

Rationale: The language indicating that the sale of the property is to be made in the manner provided by this article should be waived, because the District is asking that several provisions of the article be waived and consequently, the sale or lease will not be made in the manner provided in Article 4.

EC § 17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it [and shall specify the minimum price or rental and the terms upon which it will be sold or leased] and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker [out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered].

Rationale: The stricken language to be waived provides for the governing board to state a minimum price and the terms upon which the property will be sold or leased. The stricken language also would require specification of a meeting where proposals would be received and considered. The District is requesting that the requirement of stating a minimum price and terms be waived, so that it can receive as many offers as possible without making assumptions about the minimum price or the terms of the sale that could unnecessarily limit the possible range of solutions and proposals. Also, as the District cannot predict in advance the timing of negotiations with interested purchasers, it cannot at the time of adopting the resolution contemplated by this Section 17466, know when proposals must be brought back to the governing board for consideration. The District intends to review a number of proposals for the purchase of the property, and bring all proposals received to the governing board when necessary to consider the approval of a sale.

EC § 17468. If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the [sealed] proposal [or stated in or with the oral bid], which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

Rationale: The stricken language to be waived provides for the District to receive sealed and oral bids to purchase or lease the property at an identified meeting of the District’s governing board. The District is requesting that the requirement of sealed bids and oral bidding to purchase or lease the property be waived, allowing the District to use a proposals process and negotiate the sale or lease of the property with a qualified purchaser.

EC § 17469. Notice of the adoption of the resolution [and of the time and place of holding the meeting] shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district [, not less than 15 days before the date of the meeting,] and by publishing the notice not less than once a week for three successive weeks [before the meeting] in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.

Rationale: The stricken language to be waived assumes that the Board would be setting a specific meeting to receive proposals for the purchase of the property. Such a requirement, however, will be removed pursuant to the language stricken within Education Code Section 17466. As modified, the District would still be required to provide notice of its adoption of a resolution of intent to sell the property, but the posting of that resolution and notice in a newspaper would no longer be tied to an established date to receive proposals.

EC § 17470. (a) The governing board of a school district that intends to sell or lease real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice [of the public meeting prescribed by Section 17466], in writing, by certified mail, [at least 60 days prior to the meeting].

(b) The governing board of a school district shall not be required to accord the former owner the right to purchase the property at the tentatively accepted highest bid price nor to offer to sell the property to the former owner at the tentatively accepted highest [bid] price.

Rationale: The stricken language to be waived assumes that the Board would be setting a specific meeting to receive proposals for the purchase or lease of the property. Such a requirement, however, will be removed pursuant to the language stricken within Education Code Section 17466. As modified, the District would still be required to take reasonable steps to provide notice to the former owner, but the provision of such notice would no longer be tied to an established date to receive proposals.

EC § 17472. [At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids].

Rationale: The stricken language to be waived provides for the District to receive and open sealed proposals and oral bids to purchase or lease the property at an identified meeting of the District’s governing board. The District is requesting that the requirement of sealed proposals and oral bidding to purchase or lease the property be waived, allowing the District to use a proposals process and negotiate the sale or lease of the property with a qualified purchaser. This will allow the District to receive and consider a number of proposals and maximize the District’s ability to negotiate the most favorable transaction terms.

EC § 17473. [Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.]

Rationale: The entire section is to be waived because the District, in negotiating an agreement to sell or lease the property, will not be accepting oral bids.

EC § 17474. [In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.]

Rationale: The entire section is to be waived because the District, in negotiating an agreement to sell or lease the property, will not be accepting oral bids.

EC § 17475. The final acceptance by the governing body may be made [either at the same session or] at any [adjourned] session [of the same meeting held within the 10 days next following].

Rationale: Modification of the section would remove the requirement that the governing board accept a proposal at the same meeting received, and would instead allow the governing board to consider proposals received and, as desired and appropriate, direct further negotiation, and complete the transaction at the time most beneficial to the District.

Outcome Rationale: The Azusa Unified School District (“District”) owns the parcel of real property located at 5034 N. Clydebank Ave., Covina, California, 91722, identified by APN 8410-028-900, and most commonly referred to as the Ellington Elementary School (referred to herein as the “Property”). The District declared the Property surplus on August 8, 2023.

The District wishes to sell the Property in a manner that will provide the District with the most benefit. As a result, the District is seeking a waiver of certain portions of the Education Code allowing it to pursue a sale through an informal proposals process. This process will allow the District to publicly solicit and evaluate competitive offers and select the offer that is in the District’s best interest. This includes evaluation and comparison of offers based on various factors, including but not limited to, proposed purchase price. District staff, in consultation with legal counsel and its broker, will review the offers and determine which offer(s) provides the most beneficial terms to the District.

The District requires the flexibility proposed within the current waiver submission to work with interested parties and determine what type of transactional terms will yield the best result for the District. The District believes that a sophisticated buyer should purchase this Property and wishes to have the flexibility obtained through a waiver in order to solicit and negotiate with such an entity.

The District is developing a strategic plan for soliciting offers for the Property and is working closely with legal counsel and its broker to seek such offers and maintain a fair and open process for the proposed sale of the Property.

The District is requesting a waiver for the term of 2 years in order to have the ability to complete a sale and close escrow on a purchase that will likely take years to complete. However, the District is open to a shorter term waiver, with subsequent renewal submissions if necessary, if such shorter term is found more appropriate.

Student Population: 6311

City Type: Small

Public Hearing Date: 3/12/2024

Public Hearing Advertised: Notice of the hearing was published in the San Gabriel Valley Tribune, a local publication.

Local Board Approval Date: 3/12/2024

Community Council Reviewed By: Surplus Property Advisory Committee (7-11)

Community Council Reviewed Date: 2/16/2024

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Sabrina Buendia

Position: Legal Counsel

E-mail: [sbuendia@f3law.com](mailto:sbuendia@f3law.com)

Telephone: 310-330-6818

Bargaining Unit Date: 02/16/2024

Name: Azusa Educators Association (AEA)

Representative: Megan Savella

Title: President

Phone: 626-222-3731

Position: Neutral

Bargaining Unit Date: 02/16/2024

Name: Azusa Federation of Adult Educators (AFAE)

Representative: Cynthia Ontiveros

Title: President

Phone: 626-852-8400

Position: Neutral

Bargaining Unit Date: 02/16/2024

Name: California School Employees Association (CSEA)

Representative: Patricia Sanchez

Title: President, Chapter 299

Phone: 626-378-0061

Position: Neutral

# Attachment 3: **AZUSA Unified School District General** **Waiver Request 4-4-2024**

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964279

Waiver Number: 4-4-2024

Active Year: 2024

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Local Education Agency: Azusa Unified

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Azusa, CA 91702

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Rationale: The language indicating that the sale of the property is to be made in the manner provided by this article should be waived, because the District is asking that several provisions of the article be waived and consequently, the sale or lease will not be made in the manner provided in Article 4.

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*EC* § 17475. The final acceptance by the governing body may be made [either at the same session or] at any [adjourned] session [of the same meeting held within the 10 days next following].

Rationale: Modification of the section would remove the requirement that the governing board accept a proposal at the same meeting received, and would instead allow the governing board to consider proposals received and, as desired and appropriate, direct further negotiation, and complete the transaction at the time most beneficial to the District.

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Community Council Reviewed By: Surplus Property Advisory Committee (7-11)

Community Council Reviewed Date: 2/16/2024

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Sabrina Buendia

Position: Legal Counsel

E-mail: [sbuendia@f3law.com](mailto:sbuendia@f3law.com)

Telephone: 323-330-6818

Bargaining Unit Date: 02/16/2024

Name: Azusa Educators Association (AEA)

Representative: Megan Savella

Title: President

Phone: 626-222-3731

Position: Neutral

Bargaining Unit Date: 02/16/2024

Name: Azusa Federation of Adult Educators (AFAE)

Representative: Cynthia Ontiveros

Title: President

Phone: 626-852-8400

Position: Neutral

Bargaining Unit Date: 02/16/2024

Name: California School Employees Association (CSEA)

Representative: Patricia Sanchez

Title: President, Chapter 299

Phone: 626-378-0061

Position: Neutral

# Attachment 4: **Azusa Unified School District General** **Waiver Request 5-4-2024**

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964279

Waiver Number: 5-4-2024

Active Year: 2024

Date In: 4/9/2024 4:36:34 PM

Local Education Agency: Azusa Unified

Address: 546 South Citrus Ave.

Azusa, CA 91702

Start: 7/11/2024

End: 7/11/2026

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

Ed Code Title: Sale of Surplus Property

Ed Code Section: 17455, 17466, 17468, 17469, 17470, 17472 (all), 17473 (all), 17474 (all), 17475

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: The Azusa Unified School District desires to waive the following sections and portions of the *Education Code* (“*EC*”). Specifically, the District requests that the language in brackets [] be waived:

*EC* § 17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district [, and shall be made in the manner provided by this article].

Rationale: The language indicating that the sale of the property is to be made in the manner provided by this article should be waived, because the District is asking that several provisions of the article be waived and consequently, the sale or lease will not be made in the manner provided in Article 4.

*EC* § 17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it [and shall specify the minimum price or rental and the terms upon which it will be sold or leased] and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker [out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered].

Rationale: The stricken language to be waived provides for the governing board to state a minimum price and the terms upon which the property will be sold or leased. The stricken language also would require specification of a meeting where proposals would be received and considered. The District is requesting that the requirement of stating a minimum price and terms be waived, so that it can receive as many offers as possible without making assumptions about the minimum price or the terms of the sale that could unnecessarily limit the possible range of solutions and proposals. Also, as the District cannot predict in advance the timing of negotiations with interested purchasers, it cannot at the time of adopting the resolution contemplated by this Section 17466, know when proposals must be brought back to the governing board for consideration. The District intends to review a number of proposals for the purchase of the property, and bring all proposals received to the governing board when necessary to consider the approval of a sale.

*EC* § 17468. If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the [sealed] proposal [or stated in or with the oral bid], which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

Rationale: The stricken language to be waived provides for the District to receive sealed and oral bids to purchase or lease the property at an identified meeting of the District’s governing board. The District is requesting that the requirement of sealed bids and oral bidding to purchase or lease the property be waived, allowing the District to use a proposals process and negotiate the sale or lease of the property with a qualified purchaser.

*EC* § 17469. Notice of the adoption of the resolution [and of the time and place of holding the meeting] shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district [, not less than 15 days before the date of the meeting,] and by publishing the notice not less than once a week for three successive weeks [before the meeting] in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.

Rationale: The stricken language to be waived assumes that the Board would be setting a specific meeting to receive proposals for the purchase of the property. Such a requirement, however, will be removed pursuant to the language stricken within *Education Code* Section

17466. As modified, the District would still be required to provide notice of its adoption of a resolution of intent to sell the property, but the posting of that resolution and notice in a newspaper would no longer be tied to an established date to receive proposals.

*EC* § 17470. (a) The governing board of a school district that intends to sell or lease real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice [of the public meeting prescribed by Section 17466], in writing, by certified mail, [at least 60 days prior to the meeting].

(b) The governing board of a school district shall not be required to accord the former owner the right to purchase the property at the tentatively accepted highest bid price nor to offer to sell the property to the former owner at the tentatively accepted highest [bid] price.

Rationale: The stricken language to be waived assumes that the Board would be setting a specific meeting to receive proposals for the purchase or lease of the property. Such a requirement, however, will be removed pursuant to the language stricken within *Education Code* Section 17466. As modified, the District would still be required to take reasonable steps to provide notice to the former owner, but the provision of such notice would no longer be tied to an established date to receive proposals.

*EC* § 17472. [At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids].

Rationale: The stricken language to be waived provides for the District to receive and open sealed proposals and oral bids to purchase or lease the property at an identified meeting of the District’s governing board. The District is requesting that the requirement of sealed proposals and oral bidding to purchase or lease the property be waived, allowing the District to use a proposals process and negotiate the sale or lease of the property with a qualified purchaser. This will allow the District to receive and consider a number of proposals and maximize the District’s ability to negotiate the most favorable transaction terms.

*EC* § 17473. [Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.]

Rationale: The entire section is to be waived because the District, in negotiating an agreement to sell or lease the property, will not be accepting oral bids.

*EC* § 17474. [In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.]

Rationale: The entire section is to be waived because the District, in negotiating an agreement to sell or lease the property, will not be accepting oral bids.

*EC* § 17475. The final acceptance by the governing body may be made [either at the same session or] at any [adjourned] session [of the same meeting held within the 10 days next following].

Rationale: Modification of the section would remove the requirement that the governing board accept a proposal at the same meeting received, and would instead allow the governing board to consider proposals received and, as desired and appropriate, direct further negotiation, and complete the transaction at the time most beneficial to the District.

Outcome Rationale: The Azusa Unified School District (“District”) owns the parcel of real property located at 201 N. Vernon Avenue, Azusa, California, 91702, identified by APN 8615-018-901, and most commonly referred to as the Mountain View Elementary School (referred to herein as the “Property”). The District declared the Property surplus on August 8, 2023.

The District wishes to sell the Property in a manner that will provide the District with the most benefit. As a result, the District is seeking a waiver of certain portions of the *Education Code* allowing it to pursue a sale through an informal proposals process. This process will allow the District to publicly solicit and evaluate competitive offers and select the offer that is in the District’s best interest. This includes evaluation and comparison of offers based on various factors, including but not limited to, proposed purchase price. District staff, in consultation with legal counsel and its broker, will review the offers and determine which offer(s) provides the most beneficial terms to the District.

The District requires the flexibility proposed within the current waiver submission to work with interested parties and determine what type of transactional terms will yield the best result for the District. The District believes that a sophisticated buyer should purchase this Property and wishes to have the flexibility obtained through a waiver in order to solicit and negotiate with such an entity.

The District is developing a strategic plan for soliciting offers for the Property and is working closely with legal counsel and its broker to seek such offers and maintain a fair and open process for the proposed sale of the Property.

The District is requesting a waiver for the term of 2 years in order to have the ability to complete a sale and close escrow on a purchase that will likely take years to complete. However, the District is open to a shorter term waiver, with subsequent renewal submissions if necessary, if such shorter term is found more appropriate.

Student Population: 6311

City Type: Small

Public Hearing Date: 3/12/2024

Public Hearing Advertised: Notice of the hearing was published in the San Gabriel Valley Tribune, a local publication.

Local Board Approval Date: 3/12/2024

Community Council Reviewed By: Surplus Property Advisory Committee (7-11)

Community Council Reviewed Date: 2/16/2024

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Sabrina Buendia

Position: Legal Counsel

E-mail: [sbuendia@f3law.com](mailto:sbuendia@f3law.com)

Telephone: 323-330-6818

Bargaining Unit Date: 02/16/2024

Name: Azusa Educators Association (AEA)

Representative: Megan Savella

Title: President

Phone: 626-222-3731

Position: Neutral

Bargaining Unit Date: 02/16/2024

Name: Azusa Federation of Adult Educators (AFAE)

Representative: Cynthia Ontiveros

Title: President

Phone: 626-852-8400

Position: Neutral

Bargaining Unit Date: 02/16/2024

Name: California School Employees Association (CSEA)

Representative: Patricia Sanchez

Title: President, Chapter 299

Phone: 626-378-0061

Position: Neutral

# Attachment 5: **Azusa Unified School District General** **Waiver Request 5-4-2024**

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964279

Waiver Number: 6-4-2024

Active Year: 2024

Date In: 4/9/2024 4:56:46 PM

Local Education Agency: Azusa Unified

Address: 546 South Citrus Ave.

Azusa, CA 91702

Start: 7/11/2024

End: 7/11/2026

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

Ed Code Title: Sale of Surplus Property

Ed Code Section: 17455, 17466, 17468, 17469, 17470, 17472 (all), 17473 (all), 17474 (all), 17475

Ed Code Authority: 33050

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*EC* § 17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district [, and shall be made in the manner provided by this article].

Rationale: The language indicating that the sale of the property is to be made in the manner provided by this article should be waived, because the District is asking that several provisions of the article be waived and consequently, the sale or lease will not be made in the manner provided in Article 4.

*EC* § 17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it [and shall specify the minimum price or rental and the terms upon which it will be sold or leased] and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker [out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered].

Rationale: The stricken language to be waived provides for the governing board to state a minimum price and the terms upon which the property will be sold or leased. The stricken language also would require specification of a meeting where proposals would be received and considered. The District is requesting that the requirement of stating a minimum price and terms be waived, so that it can receive as many offers as possible without making assumptions about the minimum price or the terms of the sale that could unnecessarily limit the possible range of solutions and proposals. Also, as the District cannot predict in advance the timing of negotiations with interested purchasers, it cannot at the time of adopting the resolution contemplated by this Section 17466, know when proposals must be brought back to the governing board for consideration. The District intends to review a number of proposals for the purchase of the property, and bring all proposals received to the governing board when necessary to consider the approval of a sale.

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Rationale: The stricken language to be waived provides for the District to receive sealed and oral bids to purchase or lease the property at an identified meeting of the District’s governing board. The District is requesting that the requirement of sealed bids and oral bidding to purchase or lease the property be waived, allowing the District to use a proposals process and negotiate the sale or lease of the property with a qualified purchaser.

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Rationale: The stricken language to be waived assumes that the Board would be setting a specific meeting to receive proposals for the purchase or lease of the property. Such a requirement, however, will be removed pursuant to the language stricken within *Education Code* Section 17466. As modified, the District would still be required to take reasonable steps to provide notice to the former owner, but the provision of such notice would no longer be tied to an established date to receive proposals.

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Rationale: Modification of the section would remove the requirement that the governing board accept a proposal at the same meeting received, and would instead allow the governing board to consider proposals received and, as desired and appropriate, direct further negotiation, and complete the transaction at the time most beneficial to the District.

Outcome Rationale: The Azusa Unified School District (“District”) owns the parcel of real property located at 1035 E. Mauna Loa Ave., Azusa, California, 91702, identified by APN 8628-004-900, and most commonly referred to as the Powell Elementary School (referred to herein as the “Property”). The District declared the Property surplus on August 8, 2023.

The District wishes to sell the Property in a manner that will provide the District with the most benefit. As a result, the District is seeking a waiver of certain portions of the *Education Code* allowing it to pursue a sale through an informal proposals process. This process will allow the District to publicly solicit and evaluate competitive offers and select the offer that is in the District’s best interest. This includes evaluation and comparison of offers based on various factors, including but not limited to, proposed purchase price. District staff, in consultation with legal counsel and its broker, will review the offers and determine which offer(s) provides the most beneficial terms to the District.

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City Type: Small

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Public Hearing Advertised: Notice of the hearing was published in the San Gabriel Valley Tribune, a local publication.

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Community Council Reviewed Date: 2/16/2024

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Sabrina Buendia

Position: Legal Counsel

E-mail: [sbuendia@f3law.com](mailto:sbuendia@f3law.com)

Telephone: 323-330-6318

Bargaining Unit Date: 02/16/2024

Name: Azusa Educators Association (AEA)

Representative: Megan Savella

Title: President

Phone: 626-222-3731

Position: Neutral

Bargaining Unit Date: 02/16/2024

Name: Azusa Federation of Adult Educators (AFAE)

Representative: Cynthia Ontiveros

Title: President

Phone: 626-852-8400

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Bargaining Unit Date: 02/16/2024

Name: California School Employees Association (CSEA)

Representative: Patricia Sanchez

Title: President, Chapter 299

Phone: 626-378-0061

Position: Neutral